

19 FEB 1962

**MEMORANDUM FOR: Deputy Director (Support)****SUBJECT: Conflicts of Interest - President's  
Directive dated February 9, 1962**

1. This memorandum is for information.
2. By memorandum dated February 9, 1962 addressed to all executive department and agency heads, the President re-affirmed previous rulings that part-time consultants and advisers and members of advisory boards (intermittent personnel) are officers or employees within the meaning of the conflicts of interest statutes. The directive establishes regulations of general applicability throughout the Government for the handling of conflict of interest situations, although it notes that because of the varying problems different rules for some agencies may be appropriate.
3. While not so limited, specific mention is made of those intermittent personnel from industry, research institutes or education serving in the field of research and development. The directive is issued against the background of outdated statutes having inconsistent provisions and being unnecessarily broad in scope so as to constitute a snare for the unwary and a loophole for the venal. It is aimed at dealing with a situation where the Government, having a dire need of highly qualified personnel, is forced to use the services of individuals whose principal source of employment is with business entities engaged with the Government in scientific and technical activities funded to the extent of some 65% of the nation's expenditures.
4. For purposes of detecting venal conduct and yet protect the interests of the Government and the consultant, the directive distinguishes between these intermittent personnel who devote a substantial portion of their time to Government employment and those who are used for a lesser period, and, in addition, it requires that intermittent personnel submit a financial statement prior to appointment. Persons who devote 40% or more of their time to Government employment are disqualified during the entire period of their appointment from engaging in representational activities for compensation before any Government agency

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while those utilized for a lesser period are disqualified from acting only on the days when actually employed. The required financial statement must identify the firms, research organizations and educational institutions by which the individual is employed or in which he holds an office and the companies in which a financial interest is held.

5. It is our opinion that the President's directive will have little or no effect on the Agency's present procedures in utilizing consultants and advisory boards. And we would specifically recommend that the Agency not embark on a campaign to obtain the financial statements referred to above. This is not to say that the directive is not applicable to those components engaged in procurement and R & D activities which do use consultants in the execution of their responsibilities. But to the extent that the function of Agency consultants is restricted to developing new ideas for performance of an intelligence function we think this function can be distinguished from that performed by the usual consultant, who is generally used to formulate a program for the development of a piece of hardware for a price. We think that it could be maintained that the Agency's background security investigation serves a purpose analogous to that of the newly decreed financial statement; and that the use of inside information for financial gain is forestalled by the security classification of either the matter or the Agency interest therein, or both.

6. All this is not to say that heads of components do not have a responsibility to familiarize themselves with the provisions of the directive for purposes of considering its applicability under the particular situations of which they have cognizance. In this connection, it should be noted that under the terms of the directive the chief legal officer of the agency or department has responsibility for advising whether or not the use made of a consultant is in accord with its terms. We will be happy to consider any individual cases should the question of the propriety of use arise.

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BUSINESS WEEK March 17, 1962

### **Conflict-of-interest rules tightened for part-time Pentagon consultants**

The Defense Dept. this week tightened up the applications of its conflict-of-interest rules for the 2,000 industrial and scientific consultants who serve the military part-time. Last month's over-all Presidential order brought this action by the Pentagon, which has not been enforcing conflict-of-interest rules on part-time consultants.

Now, these consultants must file a detailed statement of employment and financial interest by Apr. 30. Technical specialists who spend more than 40% of their time as government consultants are forbidden to deal with the military on behalf of their regular employers, or of companies in which they have a financial interest. Those who work for the government less than 40% of the time cannot deal with projects involving their regular employers while on government status.

The National Aeronautics & Space Administration is expected to adopt similar rules soon.